IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2398 OF 2005

Zafir Ahmed Mohammed Ilyas Shaikh ..Petitioner.

Versus

The Bhiwandi -Nizampur City

Municipal Corporation and Ors. ..Respondents.

Mr. R.S. Datar for the Petitioner.

CORAM : S. A. BOBDE, J.

DATED : 12TH JULY, 2005.

P.C.:

1. The Trial Court has framed a preliminary issue as to the jurisdiction and has passed following order :-

> "1. The application is partly allowed.
>
> 2. The plaintiff is directed to make valuation of the suit as per Article-7, Schedule -1 of the Bombay Court Fees Act, 1959, considering the market value of the suit property.
>
> 3. The plaintiff is also directed to lead the evidence so as to decide the valuation of the suit and the preliminary issue framed

below Exh.87 regarding the jurisdiction of this court."

2. The learned counsel for the petitioner submits that the order in regard to direction No.2, should follow the carrying out of direction No.3. It is clear that the Court has not laid down any priority. Therefore, the petitioner is at liberty to apply to the Court for permission to lead evidence before the valuation is done. Indeed the enquiry contemplated, shall be in accordance with section 8 of the Bombay Court Fees Act.

3. No reason to interfere. The petition is dismissed.

12.07.2005 (S.A.BOBDE,J.)

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